

### **REMARKS**

Claims 1 and 3-20 are pending and stand rejected. Claims 1 and 19 are amended. Support for the amendments can be found, *inter alia*, at paragraph [0049], [0064], and [0072]-[0073] of the specification.<sup>1</sup> No new matter has been introduced.

Applicant respectfully submits that the amendments place the application in condition for allowance, or, in the alternative, in better form for appeal, and accordingly respectfully request entry of the amendments.

Applicant has reviewed the Office action, including the Examiner's remarks and the references cited therein. Applicant submits that the following remarks are fully responsive to the Office action, and that all pending claims are patentable over the cited references.

### **Rejections Under 35 U.S.C. § 102**

#### **Claims 1, 3-6, 19, and 20**

The Examiner rejects claims 1, 3-6, 19, and 20 under 35 U.S.C. § 102(b) as anticipated by United States patent no. 6,001,093 to Swanson et al. ("Swanson"). To be anticipatory, a single prior art reference must explicitly or inherently teach each and every element of the claimed invention. MPEP § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)). Applicant respectfully submits that Swanson fails to meet this standard.

Claim 1 recites, *inter alia*, "at least one actuating lumen sealed at a first end and open to fluid flow at a second end ... the partial curve being adapted to change curvature when a fluid pressure in the at least one actuating lumen changes." That is, "[b]y introducing, increasing, decreasing, or eliminating a fluid material in the actuating lumen, a force that changes the shape of the catheter is introduced, increased, decreased, or eliminated, respectively. Thus, by managing the proper amount of fluid force or pressure in the actuating lumen, the catheter shape may be manipulated into a

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<sup>1</sup> Paragraph references are to the application as published, United States patent application publication no. 2005/0004440 (Jan. 6, 2005).

particular shape and thereby maneuvered into a desired location or arranged into a desired shape for a procedure at the target tissue.” Specification, para. [0049].

Swanson neither teaches nor suggests the use of fluid pressure to change curvatures. Swanson instead teaches the use of steering wires. Swanson, 9:1-18. Applicant accordingly submits that Swanson does not teach each and every element of, and therefore does not anticipate, claim 1. Claims 3-6 depend from claim 1 and are allowable for at least the same reasons.

Claim 19 recites, *inter alia*, “at least one lumen including at least one manifold located along the at least a partial curve to permit a fluid flowing within the at least one lumen to exit the tubular shaft through the at least one manifold ... .” By way of further explanation, “[t]he tubular body includes an ablation fluid supply lumen adapted to provide ablation fluid to the looped portion of the catheter. ... The manifolds provide a conduit for directing ablation fluid from the ablation fluid supply lumen fairly uniformly through each manifold around the loop.” Specification, para. [0051]. In some embodiments of the invention, “[t]he inner lumen or ablating fluid lumen 70 provides a flow path for saline or another ablating fluid to flow along the tubular body of the catheter to a plurality of manifolds 72 arranged along the ablation region 42 of the catheter. ... As the fluid flows through the manifolds, it encounters an energized electrode 74 which heats the fluid within the manifold. The heated fluid flows out of the manifold and against a target tissue to ablate the tissue. Moreover, the fluid also provides a conduction path for the ablation energy to the target tissue to ablate the target tissue.” *Id.*, para. [0064].

Applicant respectfully submits that Swanson neither teaches nor suggests “at least one lumen including at least one manifold ... to permit a fluid flowing within the at least one lumen to exit the tubular shaft through the at least one manifold” as recited in claim 19. It follows that Swanson does not anticipate claim 19. Claim 20 depends from claim 19 and is allowable for at least the same reasons.

For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1, 3-6, 19, and 20 over Swanson.

Claims 1, 3-6, and 12-20

The Examiner rejects claims 1, 3-6, and 12-20 under 35 U.S.C. § 102(b) as anticipated by United States patent no. 5,499,981 to Kordis ("Kordis"). Applicant respectfully disagrees.

With respect to independent claim 1, Applicant respectfully submits that Kordis neither teaches nor suggests the use of fluid pressure to change curvatures. With respect to independent claim 19, Applicant respectfully submits that Kordis neither teaches nor suggests "at least one lumen including at least one manifold located along the at least a partial curve to permit a fluid flowing within the at least one lumen to exit the tubular shaft through the at least one manifold ... ."

Applicant therefore respectfully contends that Kordis anticipates neither claim 1 nor claim 19. Claims 3-6, 12-18, and 20 are allowable for at least the same reasons as the claims from which they depend are allowable.

Accordingly, the rejection of claims 1, 3-6, and 12-20 over Kordis should be reconsidered and withdrawn.

**Rejection Under 35 U.S.C. § 103**

The Examiner rejects claims 7-9 under 35 U.S.C. § 103 as obvious over Swanson in view of United States patent no. 6,600,956 to Maschino et al. ("Maschino"). Applicant respectfully disagrees.

Though the prior art references need not teach or suggest each and every limitation of a claim for that claim to be obvious, Applicant contends that the differences between the rejected claims and the references cited are sufficiently great so as to render the claimed invention non-obvious to one of ordinary skill in the art at the time the invention was made. Examination Guidelines for Determining Obviousness Under 35 U.S.C. § 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*, 72 Fed. Reg. 57526, 57527-28 (Oct. 10, 2007) ("[T]he focus when making a determination of obviousness should be on what a person of ordinary skill in the pertinent art would have known at the time of the invention, and *on what such a person would have reasonably expected to have been able to do in view of that knowledge.*")

(emphasis added). In particular, Applicant contends that the cited references do not teach or suggest “the partial curve being adapted to change curvature when a fluid pressure in the at least one actuating lumen changes” such that one of ordinary skill in the art would not have learned the claimed invention from the asserted references.

Claims 7-9 depend from claim 1. The shortcomings of Swanson with respect to claim 1, discussed at length above, are not cured by the addition of Maschino. Accordingly, Applicant submits that the claimed invention is substantially different from, and therefore non-obvious over, the asserted references. Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103.

**CONCLUSION**

In view of the foregoing remarks, Applicant respectfully submits that the application is in condition for allowance, and requests that all rejections be withdrawn, that all pending claims be allowed, and that the application be passed to issue. If, for any reason, the Examiner finds the application to be in other than condition for allowance, the Examiner is invited to contact the undersigned in an effort to resolve any matter still outstanding before issuing another action.

No extension of time is believed necessary for this paper to be considered timely. Should any extension of time be deemed necessary for this paper to be considered timely, Applicant hereby petitions therefor under 37 C.F.R. § 1.136.

Authorization is hereby granted to charge any fees due with the filing of this document, including fees for any extensions of time deemed necessary, to Deposit Account No. 50-1129 with reference to Attorney Docket No. 0B-044900US/82410-0195.

Respectfully submitted,

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